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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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EXAMINER

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FISCHER, A

ART UNIT	PAPER NUMBER
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2167

DATE MAILED:

04/19/01

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/475,173

Applicant(s)
Walter Ray Quick

Examiner
Andrew J. Fischer

Art Unit
2167



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Apr 10, 2001
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13, 15, and 16 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13, 15, and 16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

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DETAILED ACTION

Acknowledgments

1. The amendment filed April 10, 2001 (Paper No. 5) is acknowledged and has been entered in part. Accordingly claims 1-13, 15, and 16 remain pending.
2. The amendment to claim 3, (page 3, line 1) has not been entered because it fails to conform to the rules for amendments as set forth in 37 CFR 1.121. The other amendments to the claims have been entered.
3. In accordance with the Notice of Non-Compliant Amendment mailed March 28, 2001 (Paper No. 4) and 37 CFR 1.121, the amendment filed March 3, 2001 (Paper No. 3) has not been entered but remains part of the file wrapper.

Specification

4. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:
 - a. The “upright releasable spacing limitation means” as recited in claim 1.

Claim Rejections - 35 USC § 112 1st Paragraph

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any

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person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 1-13, 15, and 16 rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

a. In claim 1, it is unclear how the “limitation means being releasable so that the trailer can be laterally collapsed without disassembly” since releasing the strap is in fact disassembly. It is the Examiner’s position that the strap is part of the trailer.

Claim Rejections - 35 USC § 112 2nd Paragraph

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-13, 15, and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. In claim 1, it is unclear what are the “upright releasable spacing limitation means . . .” It is unclear if the means is a single strap or multiple straps.

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b. Also in claim 1, it is unclear how limitation means is releasable so that the trailer can be laterally collapsed without disassembly. It is the Examiner's position that releasing the strap is disassembly.

c. Claim 7 recites the limitation "the spacing maintenance means" in line 1. There is insufficient antecedent basis for this limitation in the claim.

d. Claims 15 and 16 are indefinite for being dependent upon a cancelled claim. Claims 15 and 16 have not be further treated on the merits.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1 and 2, as understood by the Examiner, are rejected under 35 U.S.C. 102(e) as being anticipated by Dinkins (U.S. 6,042,128). Dinkins discloses an apparatus with the following: a trailer frame (figure 2) having two rectangular members, each rectangular member having opposite end portions which are centrally and pivotally attached to the opposite end portions of the other rectangular member; each rectangular member having a lower side portion extending generally horizontally along one lower side portion of the trailer and an upper side portion extending generally horizontally along an upper side portion of the trailer; upright spacing

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limitation means extending between the two rectangular members (113B); a tongue member (114A) having a rear end portion attached to a front end portion of the trailer frame (inherent) with a central portion extending forwardly, and a front portion (inherent); a releasable hitch (handle 114B is removably attached) having a bicycle frame mounting portion (inherent) and a releasable portion (114C) which is attached to the front portion of the tongue (figure 1), a trailer bottom portion (inherent) extending between the lower side portions of the rectangular frame members (figure 1); wheels (116) each rotatinly mounted to an opposite central portion of the lower side portion of the trailer frame; wherein the trailer frame comprises tubing (both square and round tubing in figure 1); the trailer bottom portion comprises fabric; a frame bag (120) which is position within the frame and sits on the trailer bottom portion; and the spacing maintenance means comprises a strap extending between a lower and upper side portion of the trailer.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 3-6, as understood by the Examiner, are rejected under 35 U.S.C. 103(a) as being unpatentable over Dinkins in view of Patterson (U.S. 3,365,210). Dinkins discloses as discussed

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above and does not directly disclose breaks in the frame members. Patterson teaches breaks in rectangular frame members to provide compact storage (figure 4); a frame bag made of fabric (163) and has opposite top side portions which loop around the upper side portions of the upper side portions.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Dinkins as taught by Patterson to include the following: the upper and lower side portions of the rectangular frame members of the trailer comprising breaks therethrough and wherein one end of the tubing adjacent to the break has a reduced diameter so that it may be inserted within the other end of the tubing adjacent to the break so that the rectangular frame members may be joined and disassembled at the break; a frame bag made of fabric. Such a modification would have made cart more compact.

13. Claim 8-10, as understood by the Examiner, are rejected under 35 U.S.C. 103(a) as being unpatentable over Dinkins and Patterson. Dinkins and Paterson disclose as discussed above and does not directly disclose a top cover. The Examiner reasserts his Official Notice that top covers with straps are old and well known in the art. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Dinkins and Patterson to include a top cover. Such a modification would have protected the contents from rain and snow.

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Allowable Subject Matter

14. Claim 11-13 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

15. Applicant's arguments filed with the claims have been fully considered but they are not persuasive. Applicant argues, "The trailer in Dinkins does not have a spacing limitation means extending between a top and bottom portions of the frame." The Examiner respectfully disagrees since 113A in figure 1 clearly shows spacing limitation means extending between a top and bottom portions of the frame.

16. Additionally, the Examiner notes that Applicant has not claimed the limitation means being releasable so that the trailer can be laterally collapsed without disassembly of the frame.

17. Furthermore, because Applicant has not seasonably traversed the Examiner's statement(s) on Official Notice taken in the previous Office Action (Paper No. 2), the Official Notice statement(s) made by the Examiner in the previous Office Action are now taken to be admitted prior art. See MPEP §2144.03 and *In re Chevenard*, 31 CCPA 802, 139 F.2d 711, 60 USPQ 239 (CCPA 1943).

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Conclusion


18. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew J. Fischer whose telephone number is (703) 305-0292.

20. The Art Unit of your application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Group Art Unit 2167.

AJF
April 15, 2001


ANDREW J. FISCHER
PATENT EXAMINER

 4/18/01
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